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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

TERRELL K. BROCK,

Plaintiff,

v.

CVS CORPORATION; LEONORDO CORONADO; ASHLEY KAMACHO; CITY OF WHITE PLAINS; JOHN LUIS FORMOSO; and JOHN DOE WP PD OFFICER,

Defendants.

USDC SPAY

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AMENDED ORDER OF SERVICE

22 CV 4014 (VB)

(VB) 7/70/ Briccoll Chambers of Chambers of

Plaintiff, who is incarcerated and proceeding <u>pro se</u> and <u>in forma pauperis</u>, commenced this action on May 16, 2022. (Doc. #2). He alleges he was falsely arrested for criminal mischief on April 3, 2020, and then again for petit larceny on April 13, 2020, at a CVS on Mamaroneck Avenue in White Plains, New York. In his initial complaint, he asserted claims against CVS Corporation; the manager "Leo" of the Mamaroneck Avenue CVS; the City of White Plains; the White Plains Department of Public Safety; and unidentified White Plains Police Department officers.

On May 20, 2022, the Court <u>sua sponte</u> dismissed the White Plains Department of Public Safety and directed the U.S. Marshals Service to serve the remaining defendants. (Doc. #6). The Court received plaintiff's amended complaint on June 6, 2022. (Doc. #9).

On July 1, 2022, the Court received a letter from plaintiff, in which plaintiff stated he learned defendant Manager Leo's full name and the name of one of the unidentified White Plains Police Department officers. (Doc. #15). The Court instructed plaintiff to file a second amended complaint with this information by August 6, 2022. (Doc. #16).

On July 19, 2022, the Court received plaintiff's second amended complaint. (Doc. #17). The second amended complaint identifies Leonordo Coronado as Manager Leo and Jose Luis Formoso as one of the previously unknown WDPD officers. It also names a new defendant, Ashley Kamacho, who plaintiff alleges works at the Mamaroneck Avenue CVS and falsely accused him of shoplifting, which led to his April 3, 2020, arrest.

Because plaintiff is proceeding in forma pauperis, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013). Thus, the Clerk is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285") for Leonardo Coronado, Jose Luis Formosa, and Ashley Kamacho, and further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses and the complaint be served within ninety days of the date the complaint is filed, plaintiff is proceeding in forma pauperis and could not have served summonses and the complaint until the Court reviewed the second amended complaint and ordered that summonses be issued. The Court therefore extends the time to serve until ninety days after the date summonses are issued. If the second amended complaint is not served within that time, plaintiff should request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012).

CONCLUSION

The Clerk is instructed to (i) issue summonses for Leonardo Coronado, Jose Luis Formosa, and Ashley Kamacho; (ii) complete the USM-285 forms with the addresses for these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service; and (iii) mail a copy of this Order and the second amended complaint to the City of White Plains Law Department at 255 Main Street, White Plains, New York, 10601.

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: July 20, 2022

White Plains, NY

SO ORDERED:

Vincent L. Briccetti

United States District Judge

SERVICE ADDRESSES

- Leonordo Coronado
 Manager, CVS
 24 Mamaroneck Avenue
 White Plains, New York 10601
- 2. Ashley KamachoCVS Employee24 Mamaroneck AvenueWhite Plains, New York 10601
- Jose Luis Formoso, ID #1743White Plains Police Department77 South Lexington AvenueWhite Plains, New York 10601